

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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COMMUNICATIONS DIVISION
U.S. DEPARTMENT OF JUSTICE

In the Matter of

USAC Plan of Reorganization

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CC Docket Nos. 97-21/96-45
DA 98-1336

COMMENTS OF GTE

Dated: August 5, 1998

GTE Service Corporation and its affiliated
domestic telephone operating, wireless, and
long distance companies

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SUMMARY

GTE generally supports the proposal to consolidate USAC, SLC and RHCC. While supporting this proposal, GTE offers several suggestions that will enhance the administrative effectiveness and efficiency of the overall organization and each of the individual fund administrators.

GTE supports the RHCC's recommendation that each division head be empowered to hire and fire staff except where certain cost and administrative efficiencies may be gained. GTE opposes the proposal to empower any of the three divisions with the authority to bind the full USAC Board and require a supermajority of the full Board to override any individual division's decision.

GTE recommends that USAC, if approved as the permanent administrator of the high cost and low income, the schools and libraries and the rural health care funds, rely on the Commission for interpretation of the Telecommunications Act of 1996 ("Act") and Part 54 rules. The Commission, not USAC, must be responsible for making policy decisions in a timely manner so as not to disrupt the efficiency and effectiveness of USAC. GTE also believes that any review of the cost efficiency and administrative effectiveness of USAC and each of its three divisions should encompass the administrative burdens and costs these entities impose on the applicants and the service providers. GTE further proposes a streamlined method that directly reimburses qualifying applicants, not the service providers. This proposal could be far less burdensome for all potential service providers and could improve the process developed for dispute resolution by limiting the scope of the dispute to the impacted parties. In the event that GTE's simplified process is not adopted, GTE recommends that the service

providers always receive reimbursement from USAC so that they are not monetarily or competitively harmed by an unresolved dispute between an applicant and USAC. GTE also recommends that selecting USAC Board members can be more effectively managed if the nomination and selection process parallels NECA's current practices. Finally, USAC should file an annual report each year with the Commission and Congress that describes all significant aspects of its structure and operations.

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COMMENTS OF GTE

GTE Service Corporation and its affiliated domestic telephone operating, wireless and long distance companies¹ (collectively "GTE") respectfully respond to the Common Carrier Bureau's Public Notice DA 98-1336 ("Notice") seeking comments on the USAC Plan of Reorganization. While GTE generally supports the proposal to consolidate USAC, SLC and RHCC, it offers several suggestions that, if adopted, will enhance the administrative effectiveness and efficiency of the overall organization and each of the individual fund administrators. These efficiencies will benefit the applicants, the service providers and ultimately end user customers.

These comments are filed on behalf of GTE's affiliated domestic telephone operating companies, GTE Wireless Incorporated, and GTE Communications Corporation, Long Distance Division. GTE's domestic telephone operating companies are: GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc. and Contel of the South, Inc.

The submission of these Comments in no manner prejudices GTE's positions set forth in its appeals of the Commission's universal service and access charge reform orders.

I. **GTE GENERALLY SUPPORTS THE PROPOSED ADMINISTRATIVE STRUCTURE BUT PROPOSES CERTAIN MODIFICATIONS TO ENHANCE THE OVERALL EFFICIENCY AND EFFECTIVENESS OF USAC.**

A. **Consolidating Administrative Responsibilities for the Distribution of Federal Universal Service Support Under a Single Entity Ensures the Goals of Efficient Administration and Accountability.**

Consolidating the administrative responsibilities for all universal service support mechanisms under a single entity is the best way to ensure the goals of efficient administration and accountability. If it is decided that USAC is the most efficient and effective entity to perform these functions, then GTE will support the proposals to name USAC as the permanent administrator and to divest USAC from NECA at the earliest possible date. GTE also supports the creation of the three divisions (SLC, RHCC and High Cost/Low Income) in order to preserve the distinct missions of each of the three unique universal service support mechanisms.

However, GTE does not believe that the authority of the permanent administrator or any of its divisions extends to interpreting the Act or Part 54 rules or to making policy decisions in order to carry out their administrative responsibilities. Any required interpretation or policy decision-making must be the responsibility of the Commission and must be expeditiously provided to USAC so as not to interfere with the administrators' efficiency or effectiveness. Therefore, GTE sees little reason for any proposal that would empower any of the three divisions with the authority to bind the full USAC Board and require a supermajority of the full Board to override any individual division's decision. Ultimately, the Commission must retain the responsibility for policy resolution, not USAC or its divisions.

If the Commission determines that the RHCC's proposal to increase its representation is appropriate, GTE recommends redistributing representation between

the SLC and RHCC, rather than adding additional members to USAC. GTE supports the RHCC's proposal that each division head should be empowered to hire and fire its own staff except where certain cost and administrative efficiencies may be gained by hiring contract labor that could be redistributed according to the ebb and flow of activity throughout the three divisions. If each division is accountable for its own budget and the overall efficiency and effectiveness of its administrative efforts, it makes sense that each division be given the flexibility to address specific organizational concerns unique to each division.

B. While Certain Administrative Efficiencies May be Achieved by the Proposed Reorganization Plan, There Is No Recognition of Costly Implementation Issues Imposed Upon the Applicants and Service Providers.

While the proposed reorganization plan may produce certain reduced administrative costs for the entities administering the universal service programs, the plan does nothing to streamline the administrative activities required of the applicants and the telecommunications service providers. The processes and procedures that have been developed by the SLC and RHCC impose burdensome requirements on these entities.

As an example, it is particularly disheartening that some schools have not participated in the process established by the SLC simply because of the required commitment of time and energy needed to review the forms and instructions and to complete the forms for submission to the SLC. Adding further to the frustration of many schools and libraries are the many changes that have been and continue to be made to the rules and processes.

The incumbent local exchange carriers ("ILECs") have not only been forced, for

all practical purposes, to modify -- at significant costs -- existing systems and procedures, but have also had to develop new systems and procedures to comply with the administrative processes established by the SLC. Indeed, upon learning of the burdensome and costly processes and procedures that are required of program participants, some non-telecommunications carrier service providers have indicated an unwillingness to participate in bidding or any other aspect of the program. And there seems to be no cap on these costs because, not only has the SLC not yet finalized the processes, procedures and controls necessary for invoicing and funds disbursement, the ground rules keep changing (*i.e.*, five reconsideration orders to date).

While much attention is being paid to the "bureaucracy" established to administer the E-rate program and its associated administrative costs, scant attention has been paid to the significant costs service providers have had to incur -- costs that ultimately must be borne by the end user customers.

C. A Method to Reimburse Schools and Libraries Directly is Cost Effective and Administratively Easier than the Current Mechanism.

The current mechanism requires that the service providers charge rates reflecting the appropriate discounts to schools and libraries based on their applications to the SLC. The service provider must then apply to the SLC to be reimbursed for the amount of the discount. A simpler and more direct alternative would be for the SLC to provide reimbursements directly to schools and libraries for qualifying services they have received after they have paid the service provider in full. Under this proposal upon receipt and review of the required documentation, USAC would issue disbursements directly to schools and libraries for the amount of support to which they are entitled and remove the service provider from the funding equation.

Such a process could be developed that would conform to the program integrity assurance sought by the SLC, GAO and the Commission to prevent waste, fraud and abuse. GTE submits that this proposal would streamline the process for applicants to obtain benefits and eliminate the costly requirements imposed on service providers. An additional advantage of this proposal is that any disputes that may arise regarding qualifying services could be first addressed by the affected applicant and the USAC Board, alleviating the need to involve the unaffected service provider in the complaint process. Any unresolved disputes could then be referred directly to the Commission for expedited resolution.

D. The Nomination and Selection Process to Seat USAC Board Members Should Parallel NECA's Process.

The composition of the USAC Board should represent a cross-section of industry and beneficiary interests and should not be influenced by the Commission's individual preferences. GTE believes that each USAC Board member should be seated based on a majority vote cast in a contested election. A candidate receiving the majority vote should automatically be seated on the Board. This election process parallels that prescribed by Section 69.602 of the Commission's Rules for purposes of selecting the NECA Board.

E. GTE Supports an Appeal Process that Resolves Issues in a Fair, Equitable and Expeditious Manner.

The appeal process that is implemented must resolve issues in a fair, equitable and expeditious manner. The proposal put forth in the Notice does not accomplish this primarily because (1) there are too many layers to the appeal process and (2) too much time elapses during each phase of the process. In conjunction with the alternative reimbursement plan discussed previously, GTE suggests that an alternative method for

dispute resolution should be adopted in which the discontented applicant or service provider, upon receipt of a division decision, would first submit its complaint to the USAC Board. If the complaint is not satisfactorily resolved by the Board, the issue should be escalated to the Commission for its review, not to the Common Carrier Bureau ("Bureau"), as currently proposed. It is the Commission and not the Bureau that ultimately must address policy issues. GTE envisions that most complaints will only be resolved through a policy declaration. While the Bureau certainly has delegated authority in certain instances to pass upon issues that are not novel questions of fact, law or policy, its involvement in this appeal process is simply unnecessary and would only interfere with achieving a decisive conclusion in a timely manner. A decision by the Commission also advances regulatory certainty, because it will minimize similarly situated complaints from arising in the future. Involving the Bureau will only lead to process delays and untimely issue resolution that directly impact the applicants and/or service providers.

One unresolved concern is that the USAC Board is currently scheduled to meet only quarterly. This timeframe does not lend itself to expeditious resolution of disputes. To the contrary, a dispute must be resolved in a timely manner and should not be left unresolved until it is convenient for the full Board to review the complaint.

F. Reimbursements to the Service Provider Should Not be Withheld Pending Resolution of a Dispute.

While the proposed appeal process attempts to mitigate the impact to the applicants and service providers by permitting eligible applicants to receive discounts and allowing carriers to obtain reimbursement for discounted services provided, this "safety net" is only in place in the event an application for discounted services or

support is approved and that approval is appealed to the Commission. One simple suggestion to facilitate the administrative process is for the Commission to specifically clarify which services are eligible before any funding is distributed. Another is to adopt the proposal for direct fund reimbursement to the applicants, thus removing the service provider from the monetary equation and possibly from any disputes that may arise. The former would reduce the possibility of escalating certain types of disputes to the Commission in the future and the latter would simplify the appeal process limiting the scope to two, not three, affected parties.

Regardless of the disbursement or appeal process adopted, reimbursements to the service provider should never be withheld pending resolution of a dispute. If an applicant seeks the wrong discount or applies for ineligible services and/or if the application is approved in error by the division, the service provider should not be monetarily harmed for its involvement in the process. Nor should the service provider be compelled to seek "make whole" compensation directly from the applicant months after the error has been found and a decision is ultimately rendered.

From a practical perspective, one should assume that no applicant is purposely filing fraudulent information in order to obtain a discount. In all likelihood, any errors are probably directly related to the complexity of the application forms themselves and the Commission's lack of clarity regarding specific qualifying services. It is each division's responsibility to review and approve each application and put in place the necessary checks and balances to minimize waste, fraud and abuse of the program. But in the event that it is determined that an application was approved and funds subsequently disbursed erroneously, it must be the responsibility of the division to collect directly from

the offending applicant and not from the service provider. Any process that would require the service provider to reimburse the division and then to seek reimbursement from the applicant is unnecessarily complicated and administratively burdensome for all affected parties and could leave the service provider "holding an empty bag."

G. USAC Should File an Annual Report.

GTE agrees with the Commission's proposal in the *Report to Congress* that, in connection with its annual audit, USAC prepare and file with Congress and the Commission an annual report describing all significant aspects of its structure and operations for the preceding year.²

II. CONCLUSION

GTE recommends that the Commission adopt USAC's proposal to reorganize the three federal universal service fund administrators into a single organization with minor modifications GTE has proposed. The main objective of the new organization should be to administer the contribution and disbursement mechanisms of each of the three funds in a controlled and efficient manner. The USAC Board, with the assistance of the Commission, will then be positioned to resolve any disputes that may arise in a fair and equitable manner, without imposing unfair burdens on the service providers or adding unnecessary levels of administrative oversight to the process.


² *Report to Congress* at 14

Dated August 5, 1998

Respectfully submitted,

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